

General Terms and Conditions of Sale

RHe Microsystems GmbH



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I. General Terms and Conditions

1. Our terms and conditions of sale apply exclusively. We do not recognise conflicting conditions of the customer or conditions of the customer which deviate from our terms and conditions of sale, unless we have expressly agreed in writing that they apply. Our terms and conditions of sale also apply if we carry out the delivery to the customer unconditionally whilst aware of conflicting conditions of the customer or conditions of the customer which deviate from our terms and conditions of sale.
2. Partial deliveries are permitted insofar as they are not unreasonable for the buyer.
3. Our terms and conditions of sale also apply to all future business with the customer.

II. Offer / Property Rights

1. If the order is to be classified as an offer in the sense of the Civil Code, then we can accept within four weeks.
2. We reserve property rights and copyright to diagrams, calculations, models, patterns and other documents; they are not statements of condition guarantees of characteristics; they must not be made accessible to third parties. This applies especially to written documents which are designated as "confidential"; before they are passed on to third parties the customer requires our express written approval.
3. Insofar as we deliver objects which are manufactured in accordance with diagrams, drawings, calculations, models, patterns and other documents handed over by the customer, the customer guarantees that the property rights of third parties within the Federal Republic of Germany have not been violated.
4. If claims are brought against us from a third party for this reason, the customer is obliged to exempt us upon the first written demanding of these rights.
5. The right to exemption of the customer relates to all applications which necessarily arise in connection with the claims being brought by a third party.

III. Prices / Terms of Payment Condition

1. Insofar as the order confirmation contains nothing to the contrary, our "ex works" prices apply, not including packing; this is charged for separately. The respective legal amount of value-added-tax is added to the prices.
2. Insofar as the order confirmation contains nothing to the contrary, the purchase price is due net (without deduction) in Euro within 30 days from the date of invoicing.
3. If the term of payment is exceeded, from the delay at the latest, we are entitled to demand default interest in the amount of the respectively current bank rates for overdrawn credit, but at least interest of 8% above the basic interest. The right to assert further claims for compensation of delay is reserved. The customer is, however, entitled to prove to us that a substantially smaller loss has occurred for us as a result of the delay.
4. The customer is only entitled to offsetting rights if his counterclaims are legally established or acknowledged by us in writing. In addition, he is entitled to exercise a right of retention insofar as he is authorised, as his counterclaim is based on the same contractual relationship.
5. If deficient ability to pay on the part of the buyer is perceptible after concluding of the contract, we are entitled to the rights in § 321 of the Civil Code. In addition, we can make payable all demands which do not come under the statute of limitations. We can take delivered goods after the elapsing of an appropriate period of additional respite and forbid their reselling or use. The taking back of goods does not constitute withdrawal from the contract.

IV. Delivery Time

1. The start of the delivery time stated by us has the clarification of all technical questions and adherence to the payment deadlines and other obligations of the purchaser as a pre-requirement and is adhered to if the contract item has left our premises at its elapsing.
2. If we become delayed in making the delivery for reasons which are our fault, the customer is entitled to demand compensation for the delay he has suffered, if he proves to us that the losses in the extent being claimed for were caused by the delay.
3. If, after we have already fallen behind, the customer grants us an appropriate grace period with threat of refusal, then the fruitless elapsing of this grace period entitles him to withdraw from the contract. The customer is only entitled to claims for compensation due to non-fulfilment in the amount of the predictable loss if the delay is due to intent or gross negligence or liability is compelling; in addition, the liability for compensation is limited to 50% of the loss occurring.
4. The limits of liability according to paragraphs 2 and 3 do not apply, insofar as a commercial transaction for a delivery by fixed date has been agreed; the same applies if the customer can assert that his interests in the fulfilment of the contract are served in by the discontinuing of the transaction, due to the delay which is our fault.
5. If the customer is delayed in acceptance or if he violates other obligations to cooperate, then we are entitled to demand the reimbursement of the loss caused to us including any additional costs. In this case, the risk of accidental loss or accidental deterioration of the purchase object is passed on to the customer at the point in time at which he fell into delay in acceptance.
6. Delivery times are extended appropriately, if we encounter unpredictable obstacles or in cases of force majeure (e.g. strike, labour disputes, disasters) and delivery is thereby delayed.

V. Transferral of Risk / Packing Costs

1. Insofar as the order confirmation does not contain anything to the contrary, the delivery is agreed "ex works". The risk in this case is transferred if we have brought the goods for dispatching or they are collected.
2. Transport packing and all other packing according to the packing ordinance are not taken back, exceptions are Euro pallets and other reusable load carriers. The customer is obliged to make sure of the disposal of the packing at his own cost.
3. Insofar as it is wished for by the customer, we will cover the delivery with transport insurance; the customer bears the costs arising due to this.

VI. Defect Guarantee

1. The customer's proper fulfilment of his obligations regarding examination and criticism, to which he is obliged according to §§ 377 and 378 of the commercial code, is a prerequisite of the customer's guarantee rights.
2. Insofar as there exists a not insubstantial deficiency in the purchase object, and if we are to blame for this deficiency and it has been complained about promptly, we are entitled to the remedy of the deficiency or a replacement delivery (later fulfilment).
3. If we are not ready to remedy the deficiency/carry out a replacement delivery, and especially if these are delayed beyond appropriate time limits for reasons which are our fault, or if the remedying of the deficiency/carrying-out of a replacement delivery goes wrong, then the buyer can reduce the purchasing price or, after the setting and elapsing of an appropriate time limit, withdraw from the contract. If the deficiency is not substantial, he is only entitled to a reduction.
4. The statements made by us on the contractual item, on the intended purpose, such as e.g. dimensions, weight, hardness or object of utility, regard the approximate character and type of the purchase object. They are descriptions and not guaranteed characteristics. The

delivery generally takes place within the framework of the deviations permitted by DIN. Deviations from samples or from services rendered earlier are, however, avoided insofar as this is technically possible. In this, only substantial deviations outside the DIN norms can form the basis for guarantee claims according to the guidelines of the above paragraphs.

5. We are thus only to bear costs in connection with the later fulfilment if they are appropriate in the individual case – especially in relation to the purchasing price. We do not have take on costs arising due to the bringing of the goods to a place other than the headquarters or branch of the customer, unless the bringing of the goods corresponds to their contractual use.
6. The customer can only refer to a deficiency if we had the opportunity to become convinced of the existence of a deficiency. The goods or samples being complained about are to be made available to us on demand.
7. Further claims (especially damages for deficiencies) are to be dealt with in accordance with the following regulation.

VII. General Limitation of Liability and Statute of Limitations

1. We are liable for the violation of contractual and non-contractual obligations, especially due to impossibility, delay, fault in the preparation of the contract and unauthorised behaviour – even in the case of our managerial employees and persons employed by us for the performance of our obligations – only in cases of intent and gross negligence, restricted to the losses typical for the contract which could have been predicted at the concluding of the contract. This does not apply insofar as liability is compellingly stipulated.
2. These limitations do not apply in the case of the culpable infringement of essential contractual obligations, insofar as the achieving of the purpose of the contract is jeopardised, in cases of compelling liability according to the law on product liability, in cases of harm to life and limb and health. Neither do they apply insofar as we have fraudulently not mentioned the deficiency in the item or have guaranteed its absence. The regulations on the burden of proof remain unaffected by this.
3. In the event of claims based upon defect guarantee, the legal statute of limitations applies. Contractual claims which the customer brings based upon or arising in connection with the delivery of goods come under the statute of limitations. Liability for deliberate and grossly negligent violation of obligations and the application of the statute of limitations to legal recourse remain unaffected by this. In cases of later fulfilment, the term of limitation does not begin again.

VIII. Conditional Sale

1. We reserve the ownership of the purchase item until the receipt of all payments from the supply contract. In the event of continuing business relations with the customer, we reserve the property rights to all goods delivered by us until all invoices which we have against the customer from the respective business relations are settled. Distraint of the purchase items by us does not mean withdrawal from the contract. We are authorised to utilise the purchase item after taking it back, and the revenue from its use is to be charged to the liabilities of the customer – minus appropriate costs of utilisation.
2. The customer is obliged to treat the purchase item carefully; he is especially obliged to insure it sufficiently, to its value of benefit, against damage from fire, water and theft. Insofar as maintenance and inspection work is necessary, the customer must carry these out promptly at his own expense.
3. The customer is to inform us immediately of cases of distraint or other interventions of third parties so that we can bring complaints in accordance with §771 of the code of civil procedure (ZPO). Insofar as the third party is not in a position to reimburse us for the legal and out-of-court costs of a complaint in accordance with §771 of the code of civil procedure (ZPO), the customer is liable for the loss arising for us.
4. The customer is entitled to resell the purchase item in proper business dealings; but he cedes all claims in the amount of the account total from the outset, which occur for him from the reselling against his purchaser or third parties, irrespective of whether the purchase item is resold with or without further work being performed upon it. We accept this transferral. The customer remains entitled to this collection even after transferral. Our authorisation to collect the claim ourselves remains unaffected by this. We undertake, however, not to collect the claim so long as the customer fulfils his payment obligations from the agreed redemption, does not fault into arrears with payment and especially is not given an application for bankruptcy proceedings or if there is suspension of payments. If this is the case, however, we can demand that the customer discloses the transferred claims and their debtors to us, provides all the information necessary for collection, hands over the accompanying documents and informs the debtors or third parties of the transferral.
5. The processing or remodelling of the purchase item by the customer is always carried out for us. If other items, which do not belong to us, are used as components of the purchase item, then we acquire joint ownership of the new item, in proportion to the ratio of the value of the purchase item to the other items included due to the processing at the time of the mixing. As for the rest, the same applies as for the purchase item delivered by us with reservation.
6. If the purchase item is inseparably mixed with objects not belonging to us, then we acquire joint ownership of the new item, in proportion to the ratio of the value of the purchase item to the other items included due to the processing at the time of the mixing. If the mixing takes place in such a way that the items provided by the customer constitute the greater part of the item, then it is regarded as agreed that the customer transfers joint ownership to us pro rata. The customer safeguards sole ownership or joint ownership for us.
7. The customer transfers to us the claims for the securing of our claims against him which arise in connection with the combination of the purchase item with a piece of land regarding a third party.
8. We undertake to release the securities to which we are entitled, upon the request of the customer, insofar as the achievable value of our securities does not exceed the claim to be secured by more 20%, selection of the of the securities to be released is incumbent upon us.
9. If the value of the existing securities exceeds the secured claims by a total of more than 50%, then we are obliged to release the securities of our choice to this extent.

IX. Legal Domicile / Place of Fulfilment / Law to be Applied

1. If the customer is a businessman, all disputes arising hereunder will be settled before the competent court of law responsible for Radeberg - the location of our headquarters, but we are entitled to bring a complaint against the customer at his legal domicile as well.
2. Insofar as the order confirmation contains nothing to the contrary, our headquarters at Radeberg is the place of fulfilment.
3. German law is agreed upon as exclusively applicable to the execution of the contract and disputes arising therefrom, in a material as well as procedural connection.
4. Should one of the above conditions be ineffective, the effectiveness of the remaining clauses remains unaffected by this.
5. In case of doubt, the German version of these general terms and conditions of sale is decisive.